In the Supreme Court of the United States

OCTOBER TERM, 1972

No. 72-1591

CITY OF BELLEVUE, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

---

1. Petitioner, the City of Bellevue, Nebraska, enacted an ordinance purporting to annex the Offut Air Force Base and its nearby Capehart Housing Area. The government brought this suit for an injunction in the federal district court, challenging the annexation on state and federal grounds. The district court held the ordinance, and thus the purported annexation, "invalid as a matter of Nebraska law" (Pet. App. 18). The court of appeals affirmed, also solely on the basis on state law (Pet. App. 26-32).

2. Petitioner does not urge that it was in any way improper for the courts below to decide the issues of state law those courts deemed dispositive. The petition

contends merely that the courts below misinterpreted, and therefore misapplied, the relevant Nebraska Supreme Court decisions which both courts below discussed in their opinions and purported to follow. These issues of state law were fully considered, and in our view correctly decided, by the courts below; they warrant no further review by this Court.

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

ERWIN N. GRISWOLD,
Solicitor General.

JUNE 1973.